

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:09-CT-3187-D

|                                 |   |              |
|---------------------------------|---|--------------|
| SANDRA ETTERS, et al.,          | ) |              |
|                                 | ) |              |
| Plaintiffs,                     | ) |              |
|                                 | ) |              |
| v.                              | ) | <b>ORDER</b> |
|                                 | ) |              |
| SECRETARY BOYD BENNETT, et al., | ) |              |
|                                 | ) |              |
| Defendants.                     | ) |              |

On November 18, 2009, four state inmates filed this action under 42 U.S.C. § 1983 alleging violations of their Fourth, Eighth, and Fourteenth Amendment rights and seeking compensatory and punitive damages [D.E. 1]. On June 28, 2011, the remaining plaintiffs renewed their motion for class certification [D.E. 72]. On January 5, 2012, Magistrate Judge Gates held a status conference on the parties' joint motion to stay discovery [D.E. 116-117]. In granting in part the motion to stay, Magistrate Judge Gates noted:

The parties have demonstrated that they have made substantial progress toward resolving the equitable claims in this case through direct negotiations and mediations before Robert Beason in two North Carolina Superior Court cases involving claims comparable to those here. In addition, the parties have specific plans for further negotiations and mediation sessions, and **are optimistic, with demonstrated justification, that their settlement efforts will resolve not only the equitable claims in this case, but also the damages claims.**

[D.E. 118] at 1 (1/6/12 order; emphasis added). In light of the status of the parallel proceedings in state court, the court DENIES WITHOUT PREJUDICE plaintiffs' renewed motion for class certification [D.E. 72]. If counsel are unable to resolve their claims for injunctive relief in the state court proceedings, plaintiffs may file a new motion for class certification.

SO ORDERED. This 9 day of January 2012.

  
JAMES C. DEVER III  
Chief United States District Judge